

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3133 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SITARAM PARMANAND DELHIWALA & ANR.

Versus

CENTRAL AEXCISE & CUSTOMS DEPARTMENT

Appearance:

MR MB GANDHI for Petitioner

Mr B B Naik for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

The petitioner-Sitarambhai Parmanand Delhiwala & ors. have filed this Special Civil Application under Article 226 of the Constitution of India seeking direction to fix rent of the subject premises rented out to the respondent as per the assessment made by the CPWD for the period prior to 9.9.1993. A further prayer has been made that direction may be given to the respondent

to make regular payment for the year 1992 and the subsequent years as per the rent assessed by the CPWD. It is not in dispute that under the certificate dated 9.9.1988, the CPWD has assessed rent of the subject premises between Rs. 4,717/- and Rs.5,140/-. The assessment has been made in accordance with the principles of valuation and as per the prevailing market rate in the locality. Thus, it would be convenient to fix rent of the premises taking the average of the aforesaid two figures given in the certificate which comes to Rs.4,928/- per month. Respondents have no objection for paying the rent at the aforesaid rate. Similarly it is not in dispute that under the certificate dated 7.12.1993, rent of the premises has been assessed as per the principles laid down by the Directorate at Rs.6,746/- and as per the prevailing market rate at Rs.9,073/-. Taking the average of the two figures, rent can be conveniently fixed at Rs.7,910/- per month for the period 1992-93. It is stated that certain amount of rent hasd been paid to the petitioner under the interim orders of this Court. As per the certificate dated 17.12.1994 for the period 1993 onwards, the assessment is made as per the recognised principles at Rs.9,163/- per month and as per the prevailing market rate Rs.10,175/-. Thus, taking the average, monthly rent can be fixed at Rs.9,669/- per month.

2. In view of the above, this Special Civil Application is allowed. Respondents are directed to fix rent as indicated above for the different periods and calculation be made accordingly after adjusting the amount paid in excess or short. If any amount has been paid in excess, the same shall be adjusted against the subsequent years rent. The rent as indicated above under the certificate of 1994 shall remain in force for a period of 5 years and the respondents shall regularly pay the rent to the petitioners. The calculation will be undertaken and payment, if any, due shall be paid to the petitioners within a period of two months from the date of receipt of the writ.

Rule made absolute accordingly with no order as to costs.

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